

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 99-826

November 30, 1999

PUBLIC UTILITIES COMMISSION
Amendments to Section 8 of Chapter 81:
Residential Utility Service Standards
For Credit and Collection Programs

NOTICE OF RULEMAKING

WELCH, Chairman; NUGENT AND DIAMOND, Commissioners

I. INTRODUCTION

In this Notice, we open a limited rulemaking to amend section 8 of Chapter 81. The proposed amendment will prohibit eligible telecommunications carriers¹ (ETCs) from disconnecting eligible Lifeline customers' local telephone service for the non-payment of intrastate and interstate toll charges.

II. BACKGROUND

Since 1985, the Federal Communications Commission (FCC), in conjunction with the Commission and local telephone companies, has administered the Lifeline and Link-up programs. The Lifeline program reduces a qualifying customer's monthly basic telephone charges up to \$10.50 while the Link-up program provides federal support to reduce eligible customers' initial connection charges by up to one half of the normal charge.

On June 8, 1997, the FCC amended section 54.401(b) of its rules to specifically prohibit ETCs from disconnecting Lifeline customers' local telephone service for non-payment of toll charges. 47 C.F.R. § 54.401(b). Prior to the implementation of this amendment, local exchange carriers (LECs) in Maine were allowed to disconnect local service for non-payment of toll charges for all customers, provided the LEC was authorized by the provider of the toll service to mediate and resolve disputes. With the amendment to section 54.401(b) described above, Maine LECs modified their collection and disconnection procedures to comply with the new rule and discontinued the practice of disconnecting Lifeline customers' local service for the non-payment of toll charges.

¹ "Eligible Telecommunications Carriers" are local exchange carriers that are eligible to receive federal universal service support pursuant to Section 254 of the Telecommunications Act of 1996. 47 U.S.C. § 214(e).

Because the FCC's rules covered all Maine LECs, the Commission did not believe it was necessary to amend its own rules to reflect the new policy.

On July 30, 1999, the United States Court of Appeals for the Fifth Circuit issued a decision which reversed several portions of the FCC's May 8, 1997 Universal Service Order. Texas Office of Public Counsel et al. v. F.C.C., 183 F.3d 393 (5th Cir. 1999). Specifically, the Court reversed the FCC's decision to prohibit ETCs from disconnecting Lifeline customers who fail to pay toll charges. The Court held that the FCC lacked jurisdiction under the Telecommunications Act of 1996² to implement the "no disconnect" requirement. However, the Court did not pass any judgment on the "no disconnect" policy itself. Id.

On October 8, 1999 (for effect on November 1, 1999), in compliance with the Fifth Circuit decision, the FCC further amended its rules to eliminate the "no disconnect" section of 47 CFR section 54.401(b). Sixteenth Order on Reconsideration in CC Docket No. 96-45, In the Matter of Federal-State Joint Board on Universal Service, (October 8, 1999) at ¶ 34. Accordingly, Maine LECs may now disconnect Lifeline customers for non-payment of toll charges. If this were to occur, many current Lifeline customers could have their phone service disconnected for non-payment of past, unpaid toll charges.

III. PROPOSED AMENDMENT

Continuing the "no-disconnect" policy for Lifeline customers is the best way to ensure continued access to local phone service for many Maine citizens. Local phone service allows customers to contact relatives, schools, doctors and emergency services as well as to conduct business affairs and communicate with friends. The "no-disconnect rule" has allowed customers to retain their critical local phone service. In addition, a significant number of customers have had telephone service either installed for the first time or reinstalled after prior disconnection as a result of the "no-disconnect rule." The presence of toll blocks, required if a Lifeline customer elects not to pay a security deposit, has prevented the accumulation of additional toll arrearages.

The elimination of the "no-disconnect rule" could reverse the significant gains realized over recent years in both the overall penetration rate for local telephone service in Maine and the penetration rate for Lifeline service in Maine. Accordingly, the Commission proposes to add a Section 8(D) to Chapter 81 to prohibit ETCs from disconnecting Lifeline service for the non-payment of toll. The proposed language for Section 8(D) mirrors the language used in 47 CFR § 54.401(b) prior to the recent amendment and, therefore, should ensure that the disconnection policies and procedures for Lifeline customers established pursuant to the FCC's "no-disconnect" rule continue. We also amend Section 8(C), which allows for disconnection of local service for non payment of toll, to make clear that Section 8(C) applies only to non-Lifeline customers.

²47 U.S.C. § 151 et seq.

IV. FISCAL AND ECONOMIC EFFECTS

In accordance with 5 M.R.S.A. § 8057-A(1), the fiscal impact of the proposed rule is expected to be minimal. The Commission invites all interested parties to comment on the fiscal impact and all other implications of this rule.

V. RULEMAKING PROCEDURES

We have not scheduled a public hearing. If five or more interested persons request such a hearing, we will do so. This rulemaking will be conducted according to the procedures set forth in 5 M.R.S.A. §§ 8051-8058. Written comments must be filed no later than January 7, 2000, and should be sent to the Administrative Director, Maine Public Utilities Commission, 242 State Street, State House Station #18, Augusta, Maine 04333-0018. Please refer to Docket Number 99-826, when submitting comments.

The Administrative Director shall send copies of this Order and the attached proposed rule to:

1. All local exchange carriers and resellers of the same certified to operate in the State of Maine.
2. All persons who have filed with the Commission within the past year a written request for copies of this or any other Notices of Rulemaking;
3. The Office of the Public Advocate;
4. The Secretary of State for publication in accordance with 5 M.R.S.A. § 8053(5); and
5. Executive Director of the Legislative Council, State House Station 115, Augusta, Maine 04333 (20 copies); and

Accordingly, we

ORDER

1. That the Administrative Director send copies of this Order and the attached proposed rule to all the persons listed above and compile a service list of all such persons and any persons submitting written comments on the proposed rule.

2. That the Public Information Coordinator shall post a copy of this Order on the Commission's World Wide Web page <http://www.state.me.us/mpuc/>).

Dated at Augusta, Maine this 30th day of November, 1999.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond